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MAY 05 2006

OFFICE OF PETITIONS

In re Application of :
Rogers, et al. : DECISION ON PETITION
Application No. 09/360,719 :
Filed: July 27, 1999 :
Atty. Dkt. No.: 3548/010 :

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition, filed April 11, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is hereby **DISMISSED**.

This application was became abandoned February 24, 2006 for failure to timely submit a proper reply to the Notice of Allowance ("Notice") mailed November 23, 2005. Notice of Abandonment was mailed April 14, 2006.

Petitioners allege non-receipt of the Notice.

In the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

The instant petition is not accompanied by a statement from practitioner of record to the effect that a search of the file jacket and docket records indicates that the Office communication was not received. Moreover the copy of the docket report submitted herewith is illegible in that the copy of docket report is too dark and cannot be read.

Any renewed petition should be accompanied by the required statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received, and should also include a legible copy of the docket report.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


By facsimile:

(571) 273-8300

By hand delivery:

U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.


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Office of Petitions